



# The Town of Elsmere

11 Poplar Avenue, Elsmere, Delaware 19805

Phone (302) 998-2215 Fax (302) 998-9920

EXHIBIT

tabbles

25-12 A

## Application for Hearing

☒ Board of Adjustment

☒ Planning Commission

Invoice # I 2600092

Petition # 25-12 Filing Fee: 50 \$ Date Received 7/27/05 Received by: DMJ

Subject Property: 318 S. Cleveland Ave.

Property is:

☒ Residential

☐ Commercial

Tax Parcel # 1900200108 Zoning District: \_\_\_\_\_

Applicant name: John David Myers

Address: 318 S. Cleveland Ave Telephone # 302-230-1393

City: Elsmere State: DE Zip Code: 19805

Application for Zoning Variance Related to: \_\_\_\_\_

☐ Front yard setback

☐ Rear yard setback

☒ Side yard setback

☐ Lot Area

☐ Rezoning

☒ Lot Coverage

☐ Fencing

☐ Parking requirements

☐ Signage

Current Zoning: \_\_\_\_\_ New Zoning Request: \_\_\_\_\_

Application for Special Exception Use Permit for the following use: \_\_\_\_\_

GARAGE

Application for Appeal of an Administrative decision: \_\_\_\_\_

By: \_\_\_\_\_ Date: \_\_\_\_\_

For the following reasons: \_\_\_\_\_



Application for relief other than above: \_\_\_\_\_

State reasons for this request: \_\_\_\_\_

GARAGE To house ANTIQUE CARS.

Has a previous application for this property been filed with the Town? ☐ Yes ☒ No

If yes, Petition # \_\_\_\_\_

If the applicant is not the Legal Owner of the property:

Legal owner information:

Name: \_\_\_\_\_

Address: \_\_\_\_\_ Telephone # \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

Please submit the following with this petition:

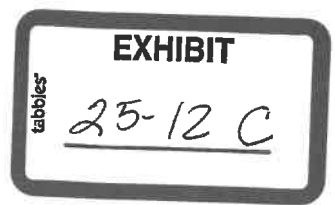
- A copy of a plot plan showing the following: location of the property; a diagram showing the layout, size, and location of existing structures on the property.
- A copy of any deed restrictions on the property.  
NOTE: THE BOARD OF ADJUSTMENT OR PLANNING COMMISSION CANNOT APPROVE ANY APPLICATION PROHIBITED BY DEED RESTRICTIONS.
- Filing fee, payable to the Town of Elsmere.

The undersigned hereby certifies that the legal owner of the subject property is aware of, and agrees to the filing of this application, that the information submitted herein is correct, and agrees to be bound by any decision of the Town of Elsmere Board of Adjustment with respect to the subject property.

**NOTE: The legal owner and his/her authorized representative must sign this form.**

Applicant's Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Legal Owner's Signature: [Signature] Date: 7/22/2025



## VARIANCE HARDSHIP WORKSHEET

Town of Elsmere Petition Number: 25-12

Property Owners Name: John David Myers

Person(s) Representing the Property Owner: \_\_\_\_\_

☐ Additional page(s) attached

**Applicants, please be aware that the following are the prerequisites to the granting of a variance:**

A variance may be granted when it will not be contrary to the public interest where, owing (due) to special conditions, a literal enforcement of the provisions of the Code of The Town of Elsmere will result in unnecessary and undue hardship.

The term "undue hardship" has a specific legal definition in this context and essentially means that without the requested variance, the applicant will have no reasonable use of the subject property under existing development regulations.

Personal medical reasons shall not be considered as grounds for establishing undue hardship sufficient to qualify an applicant for a variance.

Economic reasons may be considered only in instances where a landowner cannot yield a reasonable use and/or reasonable return under the existing land development regulations. You have the right to consult a private attorney for assistance.

In order to recommend the approval of or authorize any variance from the terms of the code, the Planning Commission or Board of Adjustment must find all of the following factors to exist:

- (1) That special conditions and circumstances exist which are not applicable to other lands, structures or buildings in the applicable zoning classification.

Please explain how this applies:

Person C use GARAGE  
\_\_\_\_\_  
\_\_\_\_\_

- (2) That the special conditions and circumstances do not result from the actions of the applicant.

Please explain how this applies:

Just Person C use garage  
\_\_\_\_\_  
\_\_\_\_\_

25-12 D

- (3) That granting the variance requested will not confer on the applicant any special privilege that is denied by the provisions of the code to other lands, buildings or structures in the identical zoning classification.

Please explain how this applies:

Nothing commercial or otherwise  
JUST GARAGE FOR ANTIQUE CARS

- (4) That literal enforcement of the provisions of the code would deprive the applicant of rights commonly enjoyed by other properties in the identical zoning classification under the provisions of the code and will constitute unnecessary and undue hardship on the applicant.

Please explain how this applies:

Other properties have similar GARAGES

- (5) That the variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure:

Please explain how this applies:


LAND HAS DRIVEWAY + shed

- (6) That the granting of the variance will be in harmony with the general intent and purpose of the code and that such use variance will not be injurious to the area involved or otherwise detrimental to the public welfare.

Please explain how this applies:

Neighbors OK with GARAGE being  
BUILT

I understand that all of the above conditions apply to the consideration of a variance and that each of these conditions have been discussed with me by the below-signed Code Enforcement Department representative. I am fully aware that it is solely my responsibility to prove that my petition meets all of the aforementioned criteria.

Signature of applicant: 

Date: 7/22/2025

Signature Code Department Representative: 

Date: 7/22/2025



**Site Analysis**  
**Petition 25-09**

**Property Owner:** John D. Meyers  
**Zoning District:** Residential  
**Address:** 318 S. Cleveland Ave.  
**Primary Use:** R1 – Single Family Dwelling  
**Parcel No.:** 19-00200-108

**LOT COVERAGE CALCULATIONS**

<b><u>Lot Area in Sq. Ft.:</u></b>	7,500	Sq. Ft.
<b><u>Allowable Lot Coverage:</u></b>	2,250	Sq. Ft. (30%)
<b><u>Total Lot Coverage Existing:</u></b>	3,479	Sq. Ft. (46%)
❖ Building =	1,259	Sq. Ft.
❖ Impervious Pave =	2,220	Sq. Ft.

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<b><u>Proposed Addition:</u></b>	160	Sq. Ft.
<b><u>Proposed Lot Coverage Total:</u></b>	3,639	Sq. Ft. (49%)

**Conclusion:** The applicant seeks to add 160 sq. feet +/- of additional impervious lot coverage.

<b><u>Required Setbacks:</u></b>	Front: 20	Rear: 30
	Side: 5	Both Sides: 10
<b><u>Existing Setbacks:</u></b>	Front: 33.3	Rear: 53
	Side: 9.9	Both Sides: 20.9
<b><u>Proposed Setbacks:</u></b>	Front: 33.3	Rear: 5
	Side: 2	Both Sides: 13

**Conclusion:** The applicant seeks to construct a garage within 2' of the side yard property line.



### **STATEMENT OF FACT**

The subject parcel is legal non-conforming regarding lot coverage. The maximum R1 zoning allows for a maximum 30% lot coverage. The subject parcel is currently 46% =/-.

### **REQUEST BY THE APPLICANT**

The applicant seeks to construct a detached 16' x 40' garage mostly over existing impervious surface.

### **ISSUE(S)**

The Town of Elsmere Code 225-31 C. prohibits the expansion of a legal non-conforming use.

The Town of Elsmere Code 225 Attachment #3 allows for a maximum lot coverage in a R1 zoning district of 30%.

The Town of Elsmere Code 225-8 I. requires that detached accessory buildings be located no less than 5' of side yard property lines.

### **GRANTING OF THE PETITION**

1. The Planning Commission of the Town of Elsmere shall determine that the proposed detached garage meets the harmonious development intent of the Town of Elsmere Code 225-9.
2. The Board of Adjustment of the Town of Elsmere shall grant a variance from the Town of Elsmere Code 225-8 I to allow for a 2' side yard setback.
3. The Board of Adjustment of the Town of Elsmere shall grant a variance from the Town of Elsmere Code 225 attachment #3 to allow for a 49% lot coverage in lieu of the required 30%.
4. If approved, the applicant shall obtain a permit from the Town of Elsmere within one year of approval.



# The Town of Elsmere

11 Poplar Avenue, Elsmere, Delaware 19805

Phone (302) 998-2215 Fax (302) 998-9920



June 24, 2025

Mayor

Joann I. Personti

1<sup>st</sup> District Councilwoman  
Secretary of Council

Jane McDaniel

2<sup>nd</sup> District Councilwoman  
President Pro-Tempore

Sally Jensen

3<sup>rd</sup> District Council

Vacant

4<sup>th</sup> District Councilman

John Holloway

5<sup>th</sup> District Councilman

Marc Henry

6<sup>th</sup> District Council

Vacant

Town Treasurer

Paul Chalfant

City Solicitor

James McMackin

David Meyers  
318 S. Cleveland Avenue  
Wilmington, DE 19805

Dear Mr. Meyers,

After reviewing your application for a building permit, it was determined that your property is an existing legal non-conforming lot due to the following:

1. Lot coverage (current lot is at 46%, allowable is 30%)

Chapter 225-31C of the Town of Elsmere Code prohibits the further expansion of an existing legal non-conforming use.

*"Except as otherwise provided in this article, the lawful use of land or buildings existing at the date of the adoption of this chapter may be continued although such use or building does not conform to the regulations specified by this chapter for the zone in which such land or building is located; provided, however:*

*A. That no nonconforming lot shall be further reduced in size.*

*B. That no nonconforming building shall be enlarged, extended, or increased unless such enlargement would tend to reduce the degree of nonconformance, except that an existing eating and drinking place may add a covered patio not exceeding 1,400 square feet that is connected to the nonconforming building.*

*C. That no nonconforming use may be expanded."*

In conclusion, the Town of Elsmere Code Enforcement Department has denied your permit. If you wish to appeal this decision, please reference Chapter 76 of the Town of Elsmere Code.

If you have any questions or concerns, please feel free to reach out to the Code Enforcement Department at (302) 998-2215.

Sincerely,

Nicole Facciolo  
Code Enforcement Officer

c; file



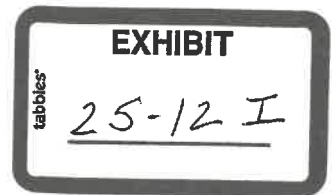


THE TOWN OF ELSMERE  
DEPARTMENT OF CODE ENFORCEMENT

11 Poplar Avenue – Elsmere, DE 19805

Phone: (302) 998-2215

Fax: (302) 998-9920



# BUILDING PERMIT

Permit Number: P2500228

Issued On: 06/17/25

Issued to the following type of property: R-1 RES; SINGLE FAMILY RESIDENTIAL

Located at: 318 S CLEVELAND AVENUE

Located in: Town of Elsmere, County of New Castle, and State of Delaware

Further known as Parcel Number: 19-00200-108

**Scope of the work covered under this permit:**

40' x 16' shed on 4'x6' treated lumber, built mostly on existing driveway.



This permit is to be prominently displayed in the front window of the property in plain view as required by the provisions of the Code. Expiration of this permit is 180 days if work has not been started. 24-hour notice is required for all necessary inspections in accordance with the Building and/or Residential Code.

This permit is hereby granted in accordance with the *Town of Elsmere Code*, and the *2021 Edition of the International Building and/or Residential Code*. **Separate Permits are required for any Plumbing, HVAC and Electrical Work.**

*\* If a dumpster is needed at the above mentioned address and that dumpster will be on the Town of Elsmere streets, a separate dumpster permit will be required.*

**For Inspections, please call: (302) 266-9057**

X

Code Enforcement Officer

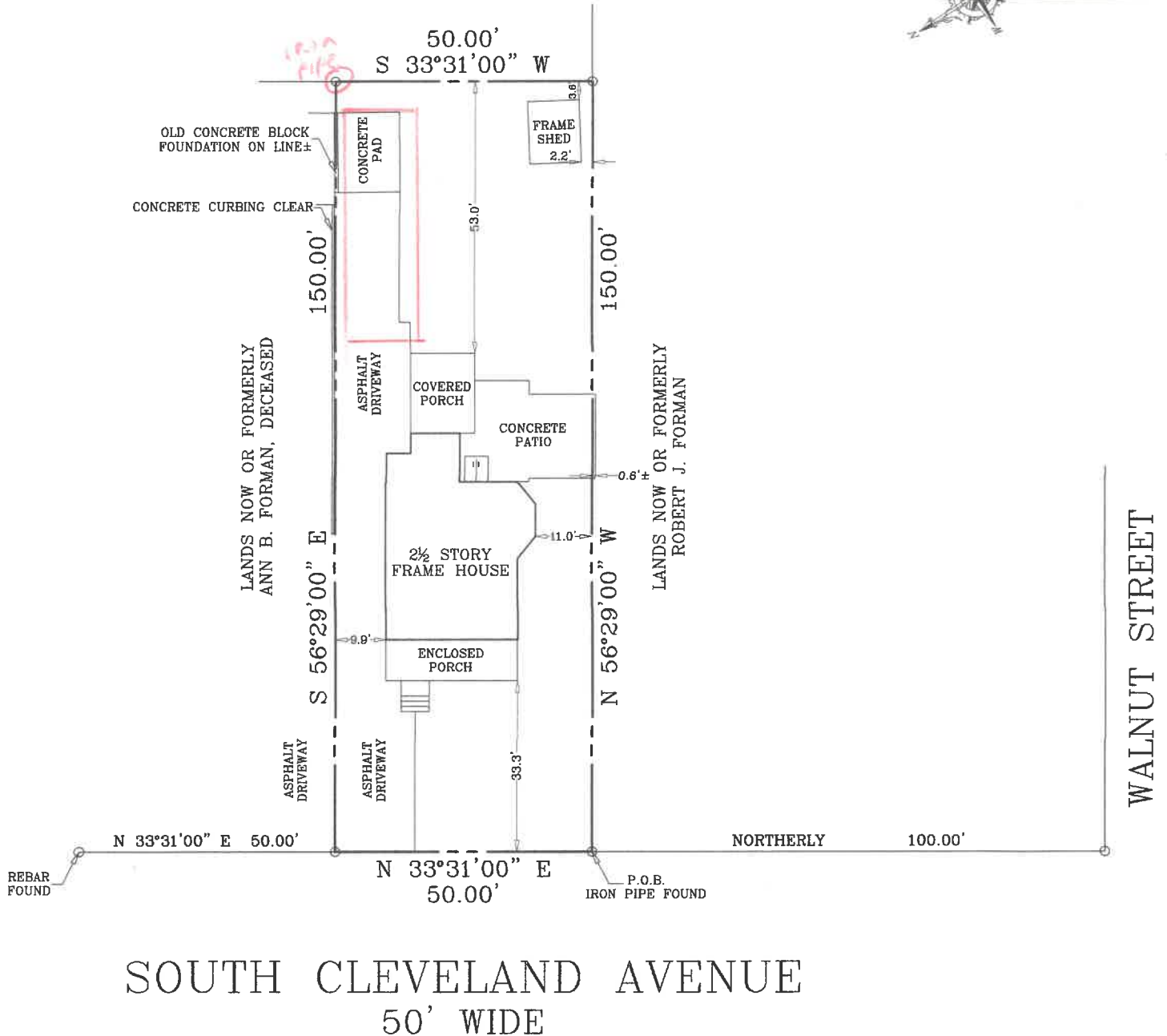
06/17/25

Date

EXHIBIT

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25-12 J



IF THIS DRAWING DOES NOT CONTAIN AN ORIGINAL SIGNATURE AND RAISED IMPRESSION SEAL IT IS NOT IN COMPLIANCE WITH REGULATIONS AND IS A PRELIMINARY DRAFT ONLY. PARCEL IS SUBJECT TO EASEMENTS, RESTRICTIONS & RESERVATIONS OF RECORD.

### PLOT PLAN

PROPERTY OWNER:  
DAVID JOHN MYERS

318 SOUTH CLEVELAND AVENUE

19-002.00-108

VILLAGE OF ELSMERE

NEW CASTLE COUNTY - DELAWARE

DEED REF: 20250318-0017496

PLAT REF:

PROJECT# 25-0207

SURVEY CLASS: S

DATE: 6/2/25

SCALE: 1"=30'

ZONING: 19R-1

FRONT- 30'

REAR- 25'

SIDE- 8'

HOUSE BUILT IN 1920

PROFESSIONAL LAND SURVEYING

AUBURN  
VALLEY  
SURVEY

P.O. BOX 37  
HOCKESSIN, DE 19707  
PHONE: (302) 379-9689

APPROVED BY



Property Address: 318 S CLEVELAND AVE  
WILMINGTON, DE 19805-  
Subdivision: ELSMERE  
Owner: MYERS JOHN DAVID  
318 S CLEVELAND AVE  
Owner Address:  
WILMINGTON, DE 19805  
Municipal Info: Incorporated in ELSMERE PROPERTY TAX AREA

Lot #:	Property Class: RESIDENTIAL
Location:	Lot Size: 0.17
Map Grid: 09603560	Lot Depth: 150
Block:	Lot Frontage: 50
Census Tract: 123	Street Finish:
Street Type: FEEDER	
Water: PUBLIC	
Microfilm #: UNREC	

**Tax/Assessment Info**

**Current Assessment**

Land: 54900  
Structure: 224000  
Homesite: 0  
Total: 278900  
County Taxable: 278900  
School Taxable: 278900

**District & Zoning Info**

**Districts**

- **FIRE/RESCUE - ELSMERE**
- **RED CLAY SCHOOL DIST-TRES**
- DE SEN 07-SPIROS MANTZAVINOS
- COUNCIL 1 - BRANDON T TOOLE
- DE REP 13-DESHANNA U NEAL
- NORTH OF C&D CANAL
- ADD REQ PER SEC 10.3.4.4 DSSR
- SENIOR SCHOOL TAX CREDIT-TRES
- SEWER DISTRICT NORTHERN-ASMT
- PLANNING 8 - LOWER CHRISTINA
- TRAFFIC ZONE T085 (YR2022)

**Zoning**

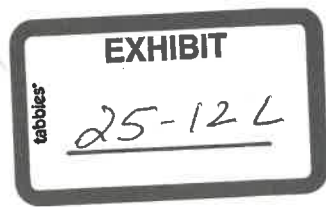
- 19R1 - ONE FAMILY DWELLING

**Deed History**

Grantee(s)	Deed	Multi?	Sale Date	Sale Amount
MYERS JOHN F & WF	D54 556	N	Not Available	\$0.00
MYERS LOUISE	WR153216	N	1/4/2012	\$0.00
MYERS J DAVID & WALSH PATRICIA M	WR169172	N	3/21/2018	\$0.00
MYERS DAVID J	20210630 0075916	N	6/23/2021	\$10.00
MYERS JOHN DAVID	20250318 0017498	N	3/10/2025	\$10.00

**Tax Bills as of 7/24/2025 3:02:17 AM**

Tax Year	County			School		
	Principal Due	Penalty Due	Amt Paid	Principal Due	Penalty Due	Amt Paid
2010A	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$51.96
2011A	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$51.51
2012A	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$51.20
2013A	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$54.08
2014A	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$55.05
2015A	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$60.79
2016A	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$70.16
2017A	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$74.01
2018A	\$0.00	\$0.00	\$136.92	\$0.00	\$0.00	\$971.53
2019A	\$0.00	\$0.00	\$126.79	\$0.00	\$0.00	\$924.66
2020A	\$0.00	\$0.00	\$118.11	\$0.00	\$0.00	\$965.16
2021A	\$0.00	\$0.00	\$116.01	\$0.00	\$0.00	\$967.83
2022A	\$0.00	\$0.00	\$144.40	\$0.00	\$0.00	\$946.08
2023A	\$0.00	\$0.00	\$152.37	\$0.00	\$0.00	\$518.17
2024A	\$0.00	\$0.00	\$153.67	\$0.00	\$0.00	\$574.04



9/7/2011	\$51.51
8/7/2012	\$51.20
9/20/2013	\$54.08
8/14/2014	\$55.05
9/30/2015	\$60.79
10/20/2016	\$66.00
3/20/2017	\$4.16
10/11/2017	\$74.01
4/5/2018	\$1.36
10/1/2018	\$300.00
11/1/2018	\$200.00
12/18/2018	\$200.00
1/2/2019	\$200.00
2/7/2019	\$207.09
8/19/2019	\$800.00
10/2/2019	\$251.45
10/2/2020	\$400.00
11/4/2020	\$200.00
1/4/2021	\$300.00
2/23/2021	\$183.27
9/28/2021	\$400.00
11/30/2021	\$300.00
1/27/2022	\$200.00
2/28/2022	\$183.84
9/7/2022	\$500.00
10/5/2022	\$300.00
2/24/2023	\$290.48
10/16/2023	\$675.45
9/27/2024	\$722.80

County Balance Due: \$214.73

School Balance Due: \$1,494.14

These amounts are valid through the last day of the month. For accounts with delinquent balances, statutory penalty will accrue on the first day of next month.

#### Sewer History as of 7/24/2025 3:00:54 AM

Tax Year	Principal Due	Penalty Due	Date Paid	Amount Paid
2007S1	\$0.00	\$0.00	11/15/2007	\$41.04
2008S1	\$0.00	\$0.00	2/26/2008	\$36.00
2009S1	\$0.00	\$0.00	2/18/2009	\$36.00
2010S1	\$0.00	\$0.00	2/23/2010	\$36.00
2011S1	\$0.00	\$0.00	2/8/2011	\$36.00
2012S1	\$0.00	\$0.00	2/3/2012	\$36.00
2013S1	\$0.00	\$0.00	2/7/2013	\$36.00
2014S1	\$0.00	\$0.00	2/20/2014	\$36.00
2015S1	\$0.00	\$0.00	2/18/2015	\$36.00
2016S1	\$0.00	\$0.00	3/1/2016	\$36.00
2017S1	\$0.00	\$0.00	6/7/2017	\$38.22
2018S1	\$0.00	\$0.00	2/23/2018	\$36.00
2019S1	\$0.00	\$0.00	2/7/2019	\$128.58
2020S1	\$0.00	\$0.00	3/3/2020	\$154.30
2021S1	\$0.00	\$0.00	3/30/2021	\$128.58
2022S1	\$0.00	\$0.00	2/28/2022	\$230.73
2023S1	\$0.00	\$0.00	2/23/2023	\$179.30
2024S1	\$0.00	\$0.00	3/11/2024	\$192.16
2025S1	\$0.00	\$0.00	2/11/2025	\$217.88

Balance Due: \$0.00

These amounts are valid through the last day of the month. Statutory penalty will accrue on the first day of next month.

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Show search results for 19002...



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# The Town of Elsmere

11 Poplar Avenue, Elsmere, Delaware 19805  
Phone (302) 998-2215 Fax (302) 998-9920

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## MEMORANDUM

Mayor

Joann I. Personti

To: Chairman James Personti  
Town of Elsmere Board of Adjustment

1<sup>st</sup> District Councilwoman  
Secretary of Council

Jane McDaniel

From: Chairman Robert Anderson  
Town of Elsmere Planning Commission

2<sup>nd</sup> District Councilwoman  
President Pro-Tempore

Sally Jensen

Re.: Petition 25-12

3<sup>rd</sup> District Council

Vacant

Date: August 5, 2025

4<sup>th</sup> District Councilman

John Holloway

Dear Chairman Personti,

5<sup>th</sup> District Councilman

Marc Henry

At the August 5, 2025, meeting of the Town of Elsmere's Planning Commission, the Commission reviewed the request for Petition 25-12 regarding Tax Parcel Number 1900-200-108. In this request, the applicant is seeking add 160 square feet of additional impervious coverage. The Planning Commission will make a recommendation to the Board of Adjustment.

6<sup>th</sup> District Councilman

Erik Ellison

After hearing testimony and having their questions answered, the commissioners in attendance voted unanimously to recommend **approval** of the petition to the Board of Adjustment.

Town Treasurer

Paul Chalfant

City Solicitor

James McMackin

Sincerely,

Robert Anderson, Chairman  
Town of Elsmere Planning Commission



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